

Name: William X. Nietzsche
Address: 1/4 4406 N. Mississippi Ave
Portland, Oregon [97217]
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FILED 28 NOV '18 14:50 USDC-ORP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

William X. Nietzsche, et al

Plaintiff(s),

Case No: # 3:18-cv-01930-SI

VS.

Freedom Home Mortgage Corporation, et al

Defendant(s).

I move the court to enter an order to
consider plaintiff's Motion To Stay State Court Proceedings
and plaintiff's Motion For Sanctions For Barretty
hereby attached as an exhibit.
Said motion was filed in Multnomah County Court, Oregon
Case # 18LT16339.

Dated: 11/29/18

William X. Nietzsche
Attorney at Law

FILED
2018 NOV 28 PM 2:33
CLERK OF COURT
HONOLULU

) **Case # 18LT16339**

) MOTION TO STAY STATE COURT
) PROCEEDINGS; MOTION FOR
) SANCTIONS FOR BARRATRY

Re Hearing Requested

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)
)
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)
)
) ORAL ARGUMENT REQUESTED

)
)
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)

- 1) This court lacks subject matter jurisdiction as the facts and law in this matter is currently pending before federal district court.
- 2) The subject real property: 4406 North Mississippi Avenue, Portland Oregon, is pending a jury trial in the Federal District Court of Oregon Portland Division case #3:18-cv-01930-SI.
- 3) There is a dispute to title regarding subject real property.

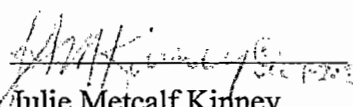
- 4) On November 5, 2018, A verified complaint was filed by Counter-plaintiff(s) and Third-party Intervenor in Federal District court regarding said real property alleging Quiet Title amongst other claims. (SEE EXHIBIT A)
- 5) On November 8, 2018, Defendant Urban Housing Development received a copy of the federal summons and verified complaint, along a with a copy of Counter-plaintiffs Motion for Preliminary Injunction and Temporary Restraining Order regarding subject real property. (SEE EXHIBIT B)
- 6) On November 14, 2018, Counter-plaintiff(s) spoke with Roman Ozeruga of Urban Housing Development to inform him of said federal lawsuit.
- 7) On November 15, 2018, Counter-plaintiff(s) text messaged with Roman Ozeruga of Urban Housing Development to inform him of said federal lawsuit.
- 8) On November 20, 2018, Counter-plaintiff(s) had a phone conversation with attorney Terrance J. Slominski who is representing Defendants Urban Housing Development against Counter-plaintiff(s) federal claims.
- 9) In said conversation Terrance J. Slominsky admitted to having received counter-plaintiff(s) Verified Complaint that was filed in Federal District court November 5, 2018.
- 10) Defendants Urban Housing Development and Roman Ozeruga had actual or constructive notice of counter-plaintiff(s) Verified Complaint filed in Federal district court prior to the filing of this FED action in state court.
- 11) On information and belief, Mark G. Passanante had actual or constructive notice of counter-plaintiff(s) Verified Complaint filed in Federal district court prior to the filing of this FED action in state court.
- 12) On information and belief, defendants Urban Housing Development and Roman Ozeruga, by and through their attorney Mark G. Passanante, knowingly and intentionally engaged in devious tactics of barratry in this court.
- 13) Defendants are knowingly and intentionally moving forward in bad faith by filing this frivolous FED action in state court.
- 14) Counter-plaintiff(s) are experiencing great emotional distress by having to expend time and effort responding to said frivolous FED action in state court.

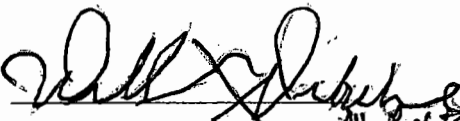
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WHEREFORE, Counter-plaintiff(s) move for an order for:

- a) An automatic stay of state court proceedings pending resolution by jury trial of Counter-plaintiff(s) federal Verified complaint;
- b) Issue sanctions of contempt of court against defendants Urban Housing Development, Roman Ozeruga, and their attorney Mark G. Passanante, for devious tactics of barratry.
- c) And any such other and further relief the court deems just and reasonable in the circumstances.

DATED: 11/28/18


Julie Metcalf Kirney
c/o 4406 North Mississippi Avenue
Portland, Oregon [97217]


William X Nietzsche
c/o 4406 North Mississippi Avenue
Portland, Oregon [97217]

4221-308
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JS 44 (Rev. 08/15)

CIVIL COVER SHEET 3:18-CV-1930-SI

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS William X Niezucha (solely as Trustee for KRM International Trust)
Julie Kinney
William Kinney Jr.

(b) County of Residence of First Listed Plaintiff Westchester
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS Freedom House Mortgage Corporation, et al.
US Bank N.A., Rushmore Loan Management Services,
Clear Recon Corporation

County of Residence of First Listed Defendant New York
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | |
|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| PTF | DEF | | PTF | DEF |
| <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Citizen of This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Citizen of Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input checked="" type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 USC 1692k, 12 USC 2614

Brief description of cause:

Unlawful Foreclosure and Breach of Note and Quiet Title

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
 DEMAND \$

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

November 5th 2018

SIGNATURE OF ATTORNEY OF RECORD

Julie Kinney

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

64406 N. Mississippi
 Portland Oregon [97217]
 503-287-6494

EXHIBIT APAGE 2 of 2

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF OREGON
 PORTLAND DIVISION

FILED 05 NOV '18 13:15 USDC-ORP

William X Nietzsche (solely as trustee for
 KRME International Trust),

William Kinney Jr.,

Julie Ann Metcalf Kinney,

Plaintiff/Petitioner,

Case No.

3:18-CV-1930-SI

VERIFIED COMPLAINT

Specific Performance; Breach of Contract;
 Promissory Estoppel; FDCPA; UDCPA;
 Breach of Trustee's Duty; Injunctive Relief;
 Fraud; OUTPA; RESPA; Accounting; Quiet
 Title; ORS 124.100(2); Rescission TILA

v.

DEMAND FOR JURY TRIAL

FREEDOM HOME MORTGAGE CORPORATION (FHMC),
 MORTGAGE ELECTRONIC REGISTRATION SYSTEMS (MERS),
 BENEFICIAL OREGON INC. (BOI),
 HSBC HOLDINGS PLC (HSBC),
 REGIONAL TRUSTEE SERVICES CORPORATION (RTSC),
 MTGLQ INVESTORS L.P. (MTGLQ),
 RUSHMORE LOAN MANAGEMENT SERVICES (RLMS),
 U.S. BANK NATIONAL ASSOCIATION (USBNA),
 CLEAR RECON CORPORATION (CRC),
 BARRISTERS SUPPORT SERVICES (BSS),
 URBAN HOUSING DEVELOPMENT (UHD),
 Et al.,

Defendants/Respondent(s)

80710

Domestic Return Receipt